

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1571-MWD-E **TCEQ ID:** RN101399103 **CASE NO.:** 40437
RESPONDENT NAME: Harris County Municipal Utility District No. 366

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Harris County MUD No. 366 WWTP, located at 7300-A Chippewa Street, on the west side of North Houston Rosslyn Road, approximately 2,200 feet north of Breen Road and 1,500 feet west of the end of Chippewa Boulevard, Houston, Harris County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 4, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Jim Burke, President, Harris County Municipal Utility District No. 366, 6200 Savoy Drive, Suite 800, Houston, Texas 77036 Respondent's Attorney: Mr. James Bonham, Smith, Murdaugh, Little & Bonham, LLP, 1100 Louisiana Street, Suite 400, Houston, Texas 77002-5211</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 11, 2010</p> <p>Date of NOV/NOE Relating to this Case: September 7, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failed to comply with permit effluent limits for ammonia nitrogen and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0014359001, Interim Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$2,980</p> <p>Total Deferred: \$596 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,384</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - Average</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that by October 31, 2010, the Respondent achieved compliance with the permitted effluent limits by expanding the Facility to include an equalization basin and all the necessary pumps, piping, and electrical service.</p>

Additional ID No(s): WQ0014359001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	13-Sep-2010	Screening	20-Sep-2010	EPA Due	
	PCW	5-Jan-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Harris County Municipal Utility District No. 366		
Reg. Ent. Ref. No.	RN101399103		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40437	No. of Violations	1
Docket No.	2010-1571-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum		\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$2,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **62.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,240**

Notes Enhancement for 10 months of self-reported effluent violations, two NOV's for same/similar violations, and one NOV for dissimilar violation.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$200**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$2,499
Approx. Cost of Compliance \$60,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$3,040**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-2.0%** **Adjustment** **-\$60**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended reduction to prevent the double enhancement of the penalty for same/similar violations that were self-reported.

Final Penalty Amount **\$2,980**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$2,980**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$596**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY **\$2,384**

Screening Date 20-Sep-2010

Docket No. 2010-1571-MWD-E

PCW

Respondent Harris County Municipal Utility District No. 366

Policy Revision 2 (September 2002)

Case ID No. 40437

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101399103

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	12	60%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 62%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for 10 months of self-reported effluent violations, two NOVs for same/similar violations, and one NOV for dissimilar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 62%

Screening Date 20-Sep-2010

Docket No. 2010-1571-MWD-E

PCW

Respondent Harris County Municipal Utility District No. 366

Policy Revision 2 (September 2002)

Case ID No. 40437

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101399103

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0014359001, Interim Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permit effluent limits, as documented during a record review conducted on August 11, 2010 and as shown in the attached table,

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

60000	Falsification		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

93 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$200

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes

The Respondent achieved compliance by October 31, 2010.

Violation Subtotal \$1,800

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,499

Violation Final Penalty Total \$2,980

This violation Final Assessed Penalty (adjusted for limits) \$2,980

Economic Benefit Worksheet

Respondent Harris County Municipal Utility District No. 366

Case ID No. 40437

Reg. Ent. Reference No. RN101399103

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$60,000	31-Dec-2009	31-Oct-2010	0.83	\$2,499	n/a	\$2,499

Notes for DELAYED costs

Estimated cost to expand the Facility to include an equalization basin and all the necessary pumps, piping, and electrical service to achieve compliance with the permitted effluent limits. Date required is the initial month of noncompliance. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$60,000

TOTAL

\$2,499

Effluent Limit Violation Table

Table rev.

Respondent Harris County Municipal Utility District No. 366
ID Number(s) WQ0014359001
Docket Number 2010-1571-MWD-E
Enf. Coordinator Heather Brister

Corresponds to Violation Number:

1

EFFLUENT PARAMETER				
	Permit Limit			
	NH ₃ -N Daily Avg. Conc. 3 mg/L	NH ₃ -N Daily Avg. Loading 2.5 lbs/day	NH ₃ -N Single Grab Conc. 15 mg/L	TSS Daily Avg. Loading 13 lbs/day
<i>Month/Year</i>				
December 2009	c	c	24.50	c
January 2010	12.50	12.82	24.50	c
May 2010	5.55	3.36	16.00	15.07

NH₃-N - Ammonia Nitrogen
TSS - Total Suspended Solids
Conc. - Concentration
Avg. - Average

lbs/day - Pounds per Day
mg/L - Milligrams per Liter
c - compliant

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600737332	Harris County Municipal Utility District No. 366	Classification: AVERAGE	Rating: 0.53
Regulated Entity:	RN101399103	HARRIS COUNTY MUD NO. 366 WWTP	Classification: AVERAGE	Site Rating: 0.53
ID Number(s):	WASTEWATER	EPA ID	TX0119431	
	WASTEWATER	PERMIT	WQ0014359001	
	WASTEWATER	EPA ID	TX0119431	
Location:	Located at 7300-A Chippewa Street, on the west side of North Houston Roslyn Road, approximately 2,200 feet north of Breen Road and 1,500 feet west of the end of Chippewa Boulevard in Harris County, Texas			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	September 20, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 20, 2005 to September 20, 2010			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Heather Brister	Phone:	(254) 761-3034	

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | No |
| 3. If Yes, who is the current owner/operator? | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s)? | N/A |
| 5. When did the change(s) in owner or operator occur? | N/A |
| 6. Rating Date: 9/1/2010 Repeat Violator: | NO |

Components (Multimedia) for the Site :

- | | | |
|----|--|-----|
| A. | Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government. | N/A |
| B. | Any criminal convictions of the state of Texas and the federal government. | N/A |
| C. | Chronic excessive emissions events. | N/A |
| D. | The approval dates of investigations. (CCEDS Inv. Track. No.) | |
| | 1 09/28/2005 (447672) | |
| | 2 10/21/2005 (492749) | |
| | 3 11/21/2005 (492750) | |
| | 4 12/15/2005 (492751) | |
| | 5 01/26/2006 (492752) | |
| | 6 02/27/2006 (492748) | |
| | 7 04/03/2006 (506412) | |
| | 8 04/19/2006 (506413) | |
| | 9 06/01/2006 (506414) | |
| | 10 06/28/2006 (484050) | |
| | 11 07/03/2006 (528634) | |
| | 12 07/05/2006 (466138) | |
| | 13 08/02/2006 (528635) | |
| | 14 08/25/2006 (510274) | |
| | 15 09/07/2006 (511303) | |
| | 16 09/12/2006 (528636) | |
| | 17 09/19/2006 (511090) | |
| | 18 10/05/2006 (631761) | |
| | 19 10/24/2006 (631763) | |
| | 20 12/04/2006 (631765) | |
| | 21 01/03/2007 (631767) | |
| | 22 01/22/2007 (631769) | |
| | 23 02/22/2007 (631754) | |
| | 24 03/22/2007 (631755) | |
| | 25 04/23/2007 (631756) | |
| | 26 05/25/2007 (631757) | |
| | 27 07/05/2007 (631758) | |
| | 28 07/24/2007 (631759) | |
| | 29 08/16/2007 (568374) | |
| | 30 08/16/2007 (631760) | |
| | 31 09/19/2007 (631762) | |

32	10/19/2007	(631764)
33	11/20/2007	(631766)
34	12/20/2007	(631768)
35	01/21/2008	(631770)
36	02/21/2008	(677391)
37	03/24/2008	(677392)
38	04/16/2008	(677393)
39	06/03/2008	(696097)
40	06/23/2008	(696098)
41	07/22/2008	(696099)
42	09/29/2008	(717745)
43	10/01/2008	(717746)
44	11/05/2008	(717747)
45	11/17/2008	(733069)
46	12/22/2008	(733070)
47	01/15/2009	(733071)
48	02/13/2009	(756238)
49	03/16/2009	(756239)
50	04/22/2009	(756240)
51	05/22/2009	(773217)
52	06/08/2009	(773218)
53	07/28/2009	(819801)
54	08/17/2009	(819802)
55	09/14/2009	(819803)
56	10/09/2009	(819804)
57	11/20/2009	(819805)
58	12/22/2009	(819806)
59	01/13/2010	(819807)
60	02/15/2010	(819800)
61	03/09/2010	(836187)
62	03/17/2010	(788773)
63	04/22/2010	(836188)
64	05/18/2010	(836189)
65	06/23/2010	(847905)
66	07/19/2010	(862319)
67	09/09/2010	(848767)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	06/21/2006	(510274)	CN600737332
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Self-reporting Requirements PERMIT		
Description:	Using unapproved self-generated Discharge Monitoring Report (DMR) forms to report monitoring results.		
Date:	06/28/2006	(484050)	
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) WQ0014359-001 PERMIT		
Description:	Failure to comply with permitted effluent limits for dissolved oxygen (DO) and pH.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) WQ0014539-001 PERMIT		
Description:	Failure to prevent the discharge of floating solids.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter C 305.45(a)(8)(B)(i) 30 TAC Chapter 305, SubChapter C 305.45(a)(8)(B)(ii)		
Description:	Failure to provide required information in the permit application.		
Date:	06/30/2006	(528635)	CN600737332
Self Report?	YES		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		

Description: Failure to meet the limit for one or more permit parameter

Date: **07/31/2006** (528636) CN600737332
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: **10/31/2006** (631765) CN600737332
Self Report? YES Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: **11/30/2007** (631768) CN600737332
Self Report? YES Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: **05/31/2008** (696098) CN600737332
Self Report? YES Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: **09/30/2008** (717747) CN600737332
Self Report? YES Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: **12/31/2009** (819807) CN600737332
Self Report? YES Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: **01/31/2010** (819800) CN600737332
Self Report? YES Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: **03/22/2010** (788773) CN600737332
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TPDES Permit No. WQ0014359001 PERMIT
Description: Failure to submit a noncompliance notification.

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TPDES Permit No. WQ001439001 PERMIT
Description: Failure to maintain compliance with the permitted effluent limits for Ammonia Nitrogen.

Date: 05/31/2010 (847905)

Self Report? YES

Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2010 (862319)

CN600737332

Self Report? YES

Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

- F. Environmental audits. N/A
- G. Type of environmental management systems (EMSs). N/A
- H. Voluntary on-site compliance assessment dates. N/A
- I. Participation in a voluntary pollution reduction program. N/A
- J. Early compliance. N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
HARRIS COUNTY MUNICIPAL
UTILITY DISTRICT NO. 366
RN101399103**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-1571-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Harris County Municipal Utility District No. 366 ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Mr. James Bonham of the law firm of Smith, Murdaugh, Little & Bonham, LLP, appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located at 7300-A Chippewa Street, on the west side of North Houston Rosslyn Road, approximately 2,200 feet north of Breen Road and 1,500 feet west of the end of Chippewa Boulevard in Houston, Harris County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 12, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Two Thousand Nine Hundred Eighty Dollars (\$2,980) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Three Hundred Eighty-Four Dollars (\$2,384) of the administrative penalty and Five Hundred Ninety-Six Dollars (\$596) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that by October 31, 2010, the Respondent achieved compliance with the permitted effluent limits by expanding the Facility to include an equalization basin and all the necessary pumps, piping, and electrical service.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0014359001, Interim Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on August 11, 2010 and shown in the table below:

EFFLUENT PARAMETER				
Permit Limit				
	NH ₃ -N Daily Avg. Conc. 3 mg/L	NH ₃ -N Daily Avg. Loading 2.5 lbs/day	NH ₃ -N Single Grab Conc. 15 mg/L	TSS Daily Avg. Loading 13 lbs/day
Month/Year				
December 2009	c	c	24.50	c
January 2010	12.50	12.82	24.50	c
May 2010	5.55	3.36	16.00	15.07
NH ₃ -N - Ammonia Nitrogen			lbs/day - Pounds per Day	
TSS - Total Suspended Solids			mg/L - Milligrams per Liter	
Conc. - Concentration			c - compliant	
Avg. - Average				

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Harris County Municipal Utility District No. 366, Docket No. 2010-1571-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be

copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Harris County Municipal Utility District No. 366

DOCKET NO. 2010-1571-MWD-E

Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

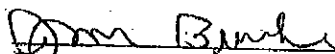
For the Executive Director_____
Date 4/21/2011

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature_____
Date 3-29-2011

Jim Burke

Name (Printed or typed)
Authorized Representative of
Harris County Municipal Utility District No. 366

President Board of Directors

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

